

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

**EXHIBIT**

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DONNA CURLING, ET AL.,

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PLAINTIFFS,

vs.

DOCKET NUMBER  
1:17-CV-2989-AT

BRAD RAFFENSPERGER, ET AL.,

DEFENDANTS.

**TRANSCRIPT OF MOTIONS HEARING PROCEEDINGS**

**BEFORE THE HONORABLE AMY TOTENBERG**

**UNITED STATES DISTRICT JUDGE**

**NOVEMBER 19, 2021**

**11:33 A.M.**

***MECHANICAL STENOGRAPHY OF PROCEEDINGS AND COMPUTER-AIDED***

***TRANSCRIPT PRODUCED BY:***

***OFFICIAL COURT REPORTER:***

***SHANNON R. WELCH, RMR, CRR  
2394 UNITED STATES COURTHOUSE  
75 TED TURNER DRIVE, SOUTHWEST  
ATLANTA, GEORGIA 30303  
(404) 215-1383***

1 MR. CROSS: Your Honor, this is why we raised it  
2 today because we did not want to disclose it and we have not  
3 disclosed it to anyone who is not subject to the AEO  
4 designations until we could confirm Your Honor's view.

5 Here is why it matters. The State has represented  
6 that no one other than their outside counsel has reviewed  
7 Dr. Halderman's report because we as plaintiffs designated it  
8 AEO.

9 So what I want to make clear is we are not  
10 designating that report AEO other than the discrete redacted  
11 portions. And if it continues to be AEO, that is fine. But it  
12 needs to be clear, Your Honor, that we are not the ones that  
13 are keeping anyone at the Secretary of State's office or  
14 Dominion or anyone else from reviewing the report.

15 And we believe it is important, as Dr. Halderman just  
16 testified in his deposition, that individuals at the Secretary  
17 of State's office review this report, take it seriously, and  
18 determine whether some remediation steps are required. And we  
19 think Dominion should see it.

20 And I just want to be clear that we are at a stage  
21 where the State can no longer say that we are the reason that  
22 no one is reading it. That is why it matters, Your Honor.

23 THE COURT: I certainly think that they could share  
24 it with Dominion. And I wouldn't have an objection to their  
25 sharing it with Dominion, just to be 100 percent clear.

1           And if they have other contractors who are involved  
2 with this, whether it is Fortalice or other entities that are  
3 responsible for the delivery of the system and the safety and  
4 security and functionality of the election system, it is to the  
5 greater good of the public. And I certainly would authorize  
6 that, if there is any question about that.

7           And in terms of federal election entities which you  
8 had -- that work on election security and electronic security,  
9 the same would be true. I'm sure that they would be capable of  
10 maintaining the confidentiality of anything in the report. And  
11 that is not the issue. And I just want to make that's  
12 100 percent clear.

13           That -- I think that that would be consistent with  
14 the greater public good. And, you know, I do believe in public  
15 access to documents. And I just was affirmed yesterday by the  
16 Eleventh Circuit on this.

17           So -- but, you know, obviously there is also a reason  
18 to not make computer technology accessible to hacking and to  
19 trying any other hacking from anyone else from outside. And  
20 that is a real issue.

21           But to confidential entities that are working on  
22 these issues, it is all to the greater good. I certainly think  
23 they ought to be authorized to review it.

24           MR. McGUIRE: Your Honor, may I add just from the  
25 perspective of the Coalition, the AEO designation has really

1 would not probably want to talk about it -- I would want  
2 another context for talking about it.

3 MR. CROSS: Understood.

4 THE COURT: You want to be sure it is -- that the  
5 concerns -- from a public policy perspective, I understand you  
6 want the concerns to be known.

7 MR. CROSS: No, Your Honor. To be clear, that is not  
8 at all what we want.

9 The analysis was done to protect our clients' right  
10 to vote. And I get the State has a different view on that, and  
11 that is fine.

12 Our concern, as Dr. Halderman explained in his  
13 deposition, is anyone who is in a position to remediate these  
14 concerns -- and this is not a situation by the way, Your Honor,  
15 where there is a disagreement. I went finding by finding  
16 through the report with Dr. Gilbert.

17 Not only does he not disagree with any of them, he  
18 said that if he wanted to examine the cybersecurity of an  
19 election system it would be Dr. Halderman.

20 So we have a report that has specific findings that  
21 no one is claiming are incorrect in any way.

22 MR. MILLER: Your Honor --

23 MR. CROSS: For the purpose of this case -- and the  
24 relief we're seeking is to protect the right to vote -- we  
25 think both the State, Fulton County, and Dominion as the vendor

1 should have this report, should review it, and should figure  
2 out if there are remedial measures that can be taken.

3 THE COURT: I understand that is your view. But I am  
4 not going to --

5 MR. CROSS: I understand. I just didn't want to  
6 leave the impression --

7 THE COURT: I am not going to order them to do it.  
8 That is all.

9 I mean, if you wanted to duke it out about him being  
10 a witness, somebody from there, that is another matter. But  
11 then at that juncture, there would be something for me to deal  
12 with.

13 MR. MILLER: Your Honor, that is suitable to us.

14 THE COURT: Okay. I mean, the State has to live with  
15 how it conducts its business.

16 MR. MILLER: Your Honor, to that end and to the --  
17 you know, there has been a lot of discussion frequently about  
18 this aspect. And as I understand it -- and, again, this is  
19 third party.

20 But as I understand it, Dominion offered to meet with  
21 Dr. Halderman and discuss his concerns, subject to the  
22 condition that the State's counsel be there. And I don't think  
23 that happened for that -- for the reason of that condition.

24 MR. CROSS: That is not accurate.

25 MR. MILLER: That's the way I understand it. It may